

Docket: A-67279-8/RFT/RMK
(469443-6)]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	David A. Horwitz	Examiner:	Not Assigned
Appln. No.:	10/650,157		
Filing Date:	August 27, 2003		
Title:	<i>Use of Cytokines and Mitogens to Inhibit Pathological Immune Responses</i>	Group Art Unit:	1632

PETITION TO COMMISSIONER FOR PATENTS

Mail Stop Petitions
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

CERTIFICATE OF MAILING I hereby certify that this document is being sent via First Class U.S. mail addressed to: Mail Stop Petitions, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450 on 3/19/04.

Jessica Newlin
*Jessica L. Newlin

Sir:

Applicant hereby petitions the Commissioner for Patents to correct the Updated Filing Receipt mailed March 9, 2004 under "Domestic Priority data as claimed by applicant" by deleting (*)Data provided by applicant is not consistent with PTO records" for the following reasons.

A typographical error was made on the first page of the specification in referring to the filing date of the parent application, 10/028,944, in the above-identified application. In the "CROSS REFERENCE" paragraph, the filing date of the parent application, 10/028,944, was typed as "December 12, 2001" and it should have been typed as "December 21, 2001." Attached as Exhibit 1 is a copy of page 1 of U.S.S.N. 10/650,157 specification as filed. Attached as Exhibit 2 is a copy of the patent application transmittal sheets for U.S.S.N. 10/028,944 showing 12/21/01 as the filing date. Applicant encloses a copy of the Updated Filing Receipt, as Exhibit 3, with the correction noted in red. Attached as Exhibit 4 is a copy of the Notice of Allowance for U.S.S.N. 10/029,944 confirming 12/21/01 as the filing date.

Enclosed herewith is Applicant's check in the amount of \$130.00 to enter this Petition and to issue a corrected Filing Receipt.

The Commissioner is authorized to charge any additional fees which may be required, including extension fees, or credit any overpayment to Deposit Account No. 50-2319 (Our Order No. A-67279-8/RFT/RMS (469443-63)).

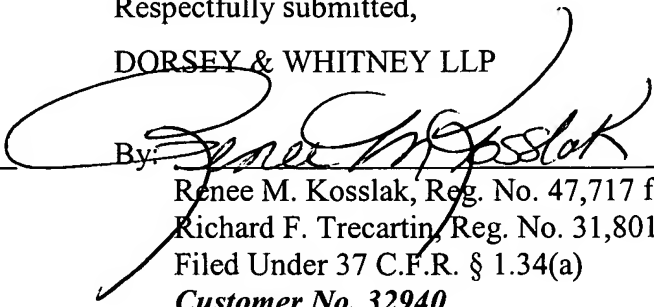
Respectfully submitted,

DORSEY & WHITNEY LLP

Date:

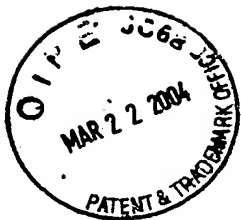
3/19/04

By:


Renee M. Kosslok, Reg. No. 47,717 for
Richard F. Trecartin, Reg. No. 31,801
Filed Under 37 C.F.R. § 1.34(a)
Customer No. 32940

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1134992



PATENT

A-67279-3/RFT/RMS/RMK

5 **USE OF CYTOKINES AND MITOGENS TO INHIBIT PATHOLOGICAL IMMUNE RESPONSES**

CROSS REFERENCE

This application is a continuation of U.S.S.N. 10/028,944, filed December 12, 2001, which is a continuation of 09/564,436, filed May 4, 2000, now U.S. Patent No. 6,358,506, which claims the benefit of the filing date of U.S.S.N. 60/132,616, filed May 5, 1999, and is a continuation in part of
10 U.S.S.N. 09/186,771, filed November 5, 1998, now U.S. Patent 6,228,359, which claims the benefit of the filing date of U.S.S.N. 60/064,507, filed November 5, 1997.

FIELD OF THE INVENTION

The field of the invention is generally related to methods of treating autoimmune diseases, including
15 both antibody-mediated and cell-mediated disorders.

BACKGROUND OF THE INVENTION

Autoimmune diseases are caused by the failure of the immune system to distinguish self from non-self. In these diseases, the immune system reacts against self tissues and this response ultimately
20 causes inflammation and tissue injury. Autoimmune diseases can be classified into two basic categories: antibody-mediated diseases such as systemic lupus erythematosus (SLE), pemphigus vulgaris, myasthenia gravis, hemolytic anemia, thrombocytopenia purpura, Grave's disease, Sjogren's disease and dermatomyositis; and cell-mediated diseases such as Hashimoto's disease, polymyositis, disease inflammatory bowel disease, multiple sclerosis, diabetes mellitus, rheumatoid
25 arthritis, and scleroderma.

In many autoimmune diseases, tissue injury is caused by the production of antibodies to native tissue. These antibodies are called autoantibodies, in that they are produced by a mammal and have binding sites to the mammal's own tissue. Some of these disorders have characteristic waxing and waning of
30 the amount of circulating autoantibodies causing varying symptoms over time.

Of the different types of antibody-mediated autoimmune disorders, SLE is a disorder that has been well studied and documented. SLE is a disorder of generalized autoimmunity characterized by B cell hyperactivity with numerous autoantibodies against nuclear, cytoplasmic and cell surface antigens.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No. A-67279-5/RFT/RMS/RMK

Anticipated Classification of
this Application:

Class: Subclass:

Prior Application SN 09/564,436

Examiner: S. COE

Art Unit: 1651

"EXPRESS MAIL" MAILING LABEL

NUMBER EL 735049272 US

DATE OF DEPOSIT December 21, 2001

I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE
"EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE
UNDER 37 CFR 1.10 ON THE DATE INDICATED ABOVE AND
ADDRESSED TO: BOX PATENT APPLICATION, ASSISTANT
COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231.

TYPED NAME DARRYL KRINER

SIGNED 

Box PATENT APPLICATION

Assistant Commissioner for Patents
Washington, DC 20231

EL735049272US

Sir:

This is a request for filing a

☐ Original

☒ Continuation

☐ Divisional

☐ Continuation-in-part

application under 37 C.F.R. 1.53(b), in the name of David A HORWITZ (Names
of ALL Applicants), for USE OF CYTOKINES AND MITOGENS TO INHIBIT PATHOLOGICAL
IMMUNE RESPONSES (Title of Invention). This ☒ continuation claims
priority to pending application Serial No. 09/564,436, filed on May
4, 2000 which is a continuation of application Serial No. 09/186,771 filed
on November 5, 1998.

1. (a) ☐ Enclosed is a new application.
(b) ☐ Enclosed is a continuation-in-part application.
(c) ☒ Enclosed is a copy of the prior application.
2. (a) ☐ Enclosed is a new Declaration.
(b) ☒ Enclosed is a copy of the prior executed Declaration as
originally filed.
(c) ☐ Enclosed is a Combined Declaration/Power of Attorney.
3. ☒ Applicant claims small entity status. See 37 CFR 1.27.

4. The filing fee is calculated below:

Claims as filed in the prior application, less any claims canceled by amendment below:

FOR:	(Col. 1) <u>NO. FILED</u>	(Col. 2) <u>NO. EXTRA</u>	<u>SMALL ENTITY</u>		<u>OTHER THAN A SMALL ENTITY</u>	
			<u>RATE</u>	<u>FEE</u>	<u>OR RATE</u>	<u>FEE</u>
BASIC FEE				\$370	OR	\$740
TOTAL CLAIMS	<u> </u> -20 = *	<u> </u>	x 9 =	\$ <u> </u>	OR	x 18 = \$ <u> </u>
INDEP CLAIMS	<u> </u> -3 = *	<u> </u>	x 42 =	\$ <u> </u>	OR	x 84 = \$ <u> </u>
[] MULTIPLE DEPENDENT CLAIM PRESENTED			+140 =	\$ <u> </u>	OR	+280 <u> </u>

5. X The Commissioner is hereby **not** authorized to charge any additional fees which may be required, including extension fees, or credit any overpayment to Deposit Account No. 06-1300 (Order No. A- /).

6. Our check in the amount of \$ is enclosed.

7. X Cancel in this application original claims 2-23 of the prior application before calculating the filing fee. (At least one independent claim must be retained for filing purposes.)

8. X Amend the specification by inserting before the first line the sentence:

--This is a X continuation of application Serial No. 09/564,436 filed May 4, 2000 which is a continuation of 09/186,771 filed on November 5, 1998.--

9. (a) X Informal drawings are enclosed, 17 sheets.
(b) Formal drawings are enclosed, sheets.

10. (a) X Priority of application Serial No. 09/564,436 filed May 4, 2000 and of application Serial No. 09/186,771 filed November 5, 1998 is claimed under 35 U.S.C. 119/120.

(b) The certified copy has been filed in prior application Serial No. filed on .

11. An Assignment is enclosed.

12. X The prior application is assigned of record to University of Southern California .

13. A Power of Attorney by Assignee is enclosed.

14. X The power of attorney in the prior application is to:
Flehr Hohbach Test Albritton & Herbert LLP
(name)
Four Embarcadero Center, Suite 3400
(address)
San Francisco, California 94111

- (a) X The power appears in the original papers in the prior application.
(b) Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.
(c) Address all future communications to:

ROBIN M. SILVA

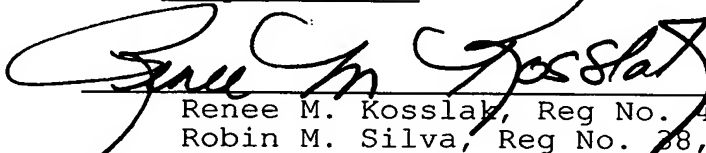
FLEHR HOHBACH TEST ALBRITTON & HERBERT LLP
Suite 3400, Four Embarcadero Center
San Francisco, California 94111-4187
Telephone: (415) 781-1989

15. A Prior Art Statement is enclosed.

16. X I hereby verify that the attached papers are a true duplicate of prior application Serial No. 09/564,436 as originally filed on May 4, 2000.

Date:

12/21/01

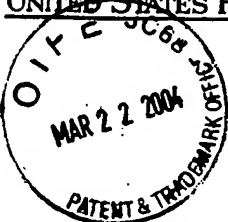


Renee M. Kosslak, Reg No. 41,717 for
Robin M. Silva, Reg No. 28,304

Flehr Hohbach Test
Albritton & Herbert LLP
Four Embarcadero Center, Suite 3400
San Francisco, California 94111



UNITED STATES PATENT AND TRADEMARK OFFICE



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NOTICE OF ALLOWANCE AND FEE(S) DUE

7590

05/29/2003

ROBIN M. SILVA
FLEHR HOHBACH TEST ALBRITTON & HERBERT LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

File A-67279-5 Atty. PT/AMS/RMKDue Date 8/29/2003Type Issue Fee Refs _____

EXAMINER

COE, SUSAN D

ART UNIT

CLASS-SUBCLASS

1654

424-093710

DATE MAILED: 05/29/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,944	12/21/2001	David A. Horwitz	469443-00004/A-67279-5/RF	4305

TITLE OF INVENTION: USE OF CYTOKINES AND MITOGENS TO INHIBIT PATHOLOGICAL IMMUNE RESPONSES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$650	\$300	\$950	08/29/2003

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status.
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

EXHIBIT 4



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/650,157	08/27/2003	1632	727	A-67279-8	16	23	2

Richard F. Trecartin
 DORSEY & WHITNEY LLP
 Suite 3400
 Four Embarcadero Center
 San Francisco, CA 94111-4187

CONFIRMATION NO. 7043

UPDATED FILING RECEIPT



OC000000012058114

Date Mailed: 03/09/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

David A. Horwitz, Santa Monica, CA;

Domestic Priority data as claimed by applicant

This application is a CON of 10/028,944 ~~12/21/2001~~ ^{12/21/2001 - IS CORRECT}
 which is a CON of 09/564,436 05/04/2000 PAT 6,358,506
 which claims benefit of 60/132,616 05/05/1999
 and is a CIP of 09/186,771 11/05/1998 PAT 6,228,359
 which claims benefit of 60/064,507 11/05/1997

(*) Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 01/02/2004

Projected Publication Date: 04/15/2004

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

EXHIBIT 3

Title

Use of cytokines and mitogens to inhibit pathological immune responses

Preliminary Class

424

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).